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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,471	09/25/2003	Kouji Yokouchi	2091-0292P	4852
2292 7590 01/11/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER EHICHIOYA, FRED I	
			ART UNIT 2162	PAPER NUMBER
			NOTIFICATION DATE 01/11/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/669,471

Applicant(s)

YOKOUCHI, KOUJI

Examiner

Fred I. Ehichioya

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to communications filed December 18, 2007.
2. New claims 19 – 23 are added.
3. Claims 1 – 23 are pending in this Office Action.

Claim Rejections - 35 USC § 101

4. Applicant's amendment to claims 7 – 18 overcomes the rejections under 35 U.S.C. 101; therefore the rejections of claims 7 - 18 under 35 U.S.C. 101 of last Office Action is hereby withdrawn.

Response to Arguments

5. Applicant argues:
(a) Romanik fails to teach specifying priority among the specified information items (page 9, paragraph 3).

Examiner respectfully disagrees with the applicant. Romanik discloses specifying priority among the specified information items as shown on page 6, [0047]: "Some images are more important or more desired than other images, and this system can prioritize and reduce the least important images first. . . Each of these pieces can be assigned to one or more image classifications".

Further Hiroshi Shibazak discloses specifying priority among the specified information items (column 1, lines 59 – 60).

(b) There is no disclosure that is directed to classifying images into groups according to the specified priority (page 9, paragraph 3).

Examiner respectfully disagrees with the applicant. Romanik discloses classifying images into groups according to the specified priority as shown on page 5, [0044]:

"Classification information, if any, which is attached to an image can be reviewed to determine the importance of the image. This allows the images in the queue to be prioritized" - Examiner submits that classifying is grouping.

Further Hiroshi Shibazak discloses classifying images into groups according to the specified priority (column 14, lines 38 – 40).

In view of the above response and rejection of the last Office Action that is applicable herewith, Examiner contends that the rejection of last Office Action is proper.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2001/0022624 issued to Tanaka et al., (hereinafter "Tanaka") in view of U.S. Pub. No. 2003/0018802 issued to Romanik et al., (Hereinafter "Romanik").

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Regarding claims (1, 7 and 13)*¹, Tanaka discloses an image classification apparatus for classifying image data sets added with accompanying information including information items, the image classification apparatus comprising:

accompanying information obtaining means for obtaining the accompanying information from the image data sets (see page 5, [0016] wherein a method of obtaining image information is disclosed); and

image classification means for classifying the image data groups having a hierarchical structure of the information items according to the specified sets into specified priority (see page 7, [0091] and Fig.10 wherein image classification based on tree structure is disclosed).

Tanaka does not explicitly teach specification of image as claimed.

However, Romanik discloses information item specification means for specifying a portion of or all of the information items of the accompanying information to be used for image classification, and for specifying priority among the specified information items (see page 5, [0042] wherein the image can also be divided into multiple windows to specify those regions that contain desired information).

It would have been obvious to one of ordinary skills at the data processing art at the time of present invention to combine the cited references, because Romanik's teaching of specification information regarding image would have allowed Tanaka's system to classify images into different classes. These classes simplify the searching or locating a particular image.

***1 in the above claims, claim 1 is an apparatus, claim 7 is a program claim and claim 13 is a computer readable medium claim otherwise they essentially have the same claim limitations.**

Regarding claims 2, 8 and 14, Romanik discloses the image classification apparatus according to Claim 1, wherein the accompanying information includes classification condition information representing a set of the information items to be used for image classification (see page 3, [0026] wherein There are many conditions under which image 305 must be put into queue) and

the information item specification means specifies the information items to be used for image classification according to the classification condition information (see page 2, [0023] wherein it accepts the image along with an operation to specify additional attributes. These attributes can include, but are not limited to, specifying what forms of processing the client transfer mechanism can apply to the image).

Regarding claims 3, 9 and 15, Tanaka discloses the image classification apparatus according to Claim 2, wherein the accompanying information includes at least one of items comprising time and date of photography, a photography condition, a photography location, a size of an image, the type of a subject, the name of the subject, the number of objects as the subject, an event, and a comment, as the information items thereof (see Fig. 1 step 16).

Regarding claims 4, 10 and 16, Tanaka discloses the image classification apparatus according to Claim 1, wherein the accompanying information includes classification condition information representing a combination of the information items to be used for image classification and the priority thereof (see Fig.8 where the image could be classify either by title, white balance or date), and

the information item specification means specifies the information items to be used for image classification and the priority thereof, according to the classification condition information (see page 8, [0103] wherein a priority is disclosed).

Regarding claims 5, 11 and 17, Tanaka discloses the image classification apparatus according to Claim 4, wherein the accompanying information includes at least one of items comprising time and date of photography, a photography condition, a photography location, a size of an image, the type of a subject, the name of the subject, the number of objects as the subject, an event, and a comment, as the information items thereof (see Fig. 1 step 16).

Regarding claims 6, 12 and 18, Tanaka discloses the image classification apparatus according to Claim 1, wherein the accompanying information includes at least one of items comprising time and date of photography, a photography condition, a photography location, a size of an image, the type of a subject, the name of the subject, the number of objects condition, a photography location, a size of an image, the type of

a subject, the name of the subject, the number of objects as the subject, an event, and a comment, as the information items thereof (see Fig. 1 step 16).

8. Claims 19 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka in view of Romanik and further in view of U.S. Patent No.6,012,069 issued to Hiroshi Shibazak (hereinafter "Shibazak").

Regarding claims 19 and 20, Tanaka and Romanik discloses the claimed subject matter as discussed in claims 1 and 13 respectively. Tanaka or Romanik does not explicitly disclose lower layer in the hierarchical structure as claimed.

Shibazak discloses wherein the hierarchical structure of each of the groups has a plurality of layers (see Fig.12),

wherein a lower layer in the hierarchical structure is associated with a group having a lower order of priority Fig.12 and column 14, lines 39 – 40 "higher priorities are allocated to upper group"; implicitly, lower group/lower layer are associated with the lower priority. See also column 14, lines 65 – 67); and

wherein an image data set is classified into a group in the lowest layer of the hierarchical structure, the lower layer being a layer corresponding to the information item that has the lowest order of priority among the information items included in the accompanying information (column 14, lines 34 – 40 and lines 63 – 64).

It would have been obvious to one of ordinary skills at the data processing art at

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the time of present invention to combine the cited references, because Shibazak's teaching of lower layer in the hierarchical structure would have improved Tanaka and Romanik's system by enabling a user to efficiently retrieve an image that meets the user's ambiguous requirements.

Regarding claim 21, Shibazak discloses the image classification apparatus of claim 19, wherein the image classification means automatically creates the groups having the hierarchical structure of the specified information items according to the specified priority (column 13, lines 11 – 15).

Regarding claim 22, Shibazak discloses the image classification apparatus of claim 1, wherein the information item is arbitrarily designated by a user (column 1, lines 61 – 65).

Regarding claim 23, Shibazak discloses the image classification apparatus of claim 19, wherein the hierarchical structure has a plurality of layers (Fig. 12 is a hierarchical structure with plurality of layers), and wherein each of the plurality of layers is associated with one specified information item, each of said specified information items being associated with the priority (column 14, lines 34 – 36),

wherein each of the layers of the hierarchical structure is associated with a different priority (Fig. 14 and column 14, lines 49 – 50), and

wherein the image classification means classifies the image data sets into groups based on the priority associated with each of said specified information items (column 14, lines 38 – 40).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred I. Ehichioya whose telephone number is 571-272-4034. The examiner can normally be reached on M - F 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fred I. Ehichioya/

December 30, 2007


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